

Criminal History Records Working Group Meeting

Date of Meeting: May 9, 2011

Attendees: Leslie Moore, KBI – Information Services Division Manager
David Hutchings, KBI – Special Operations Division Special Agent in Charge
Sheri Sharp, KBI – Criminal History Records Trainer
Amy Spitler, Hutchinson Municipal Court
Patrick Vogelsberg, KS County and District Attorney Association
Kyle Smith, AG's Office / KBI Attorney
Sarah Fertig, Kansas Sentencing Commission
Jerry Bauer, KS Dept of Corrections
Kathy Porter, Office of Judicial Administration (sitting in for Helen Pedigo)
Tammy Sisk, KBI – Information Services Division Asst Manager / Criminal History Records Supervisor
John Ostensow, Shawnee County Sheriff
Cecilia Craig, Shawnee County Sheriff
Randy Bowman, Juvenile Justice Authority
Lisa Parrish, KBI – Identification Supervisor

The meeting began at 1:30pm.

Introductions were made around the room.

Purpose

David Hutchings explained the purpose of the working group was to identify problems with criminal history records, such as reporting issues, content, availability, etc. We would also like the working group to come up with ideas on how to overcome these issues.

Membership

David Hutchings explained the importance to have each part of the criminal justice community that reports criminal history be included on the working group. He asked if there were any other people that should be invited to attend the working group. Lisa Parrish thought it would be good to have a jail representative because most jails do the fingerprinting for arresting agencies. Randy Bowman suggested that a juvenile detention facility also be invited. (Please note that a PD representative was invited; however, no one attended the meeting.)

Statutory Requirements / Rules and Regulations

Leslie Moore generally explained why the KBI central repository requests information. The specific statutes/rules and regulations were not discussed. David Hutchings asked if anyone had any statutes/rules and regulations from their agency that they would like to discuss. No one responded.

Reporting problems

Leslie Moore explained that there were several issues the central repository is trying to overcome with reporting problems.

- Missing fingerprint cards:

- Arrest information is reported on criminal history records by the fingerprint card. If a fingerprint card is not reported but the court information is reported then the central repository attempts to contact the arresting agency to request the fingerprint card.
- Warrant arrest for other jurisdiction should be fingerprinted by both the arresting agency and the jurisdiction that originated the warrant. Many times the individual is never fingerprinted by anyone. The arresting agency thinks the originating jurisdiction will print the person and vice versa.
- The fingerprint card is the only way to get the information on the person's federal record at the FBI. If it was the only reportable offense (felony, class A or B misd, or class C assault) and the fingerprint card was never reported then the federal record will not exist. If that person was a registered offender and there is no federal record then the person cannot be correctly registered. If the offender moves out of state then the other state has no way of verifying that record. Fingerprints are very important.
- Missing palm print cards: In 2007 the state law was updated to require palm prints for all felonies, class A or B misd, or class C assault. Lisa Parrish keeps track of the agencies that do not report palm print cards and notifies them during training.
- Bad fingerprints: Bad fingerprints are just as bad as missing fingerprints. If we cannot read the prints then we cannot add the arrest to the record. Bad fingerprints cause rejections from the FBI. The FBI only allows each state to have .5% of all fingerprints submitted to be bad fingerprints. Kansas well exceeds our limit each month. Lisa Parrish explained that she has been providing training on this for several years, but the problem is not getting better.
 - Livescan agencies do not review their messages to re-submit rejected records.
 - Error messages are sent back via email. The email address is provided by the agency.
 - Daily AFIS Reports are also sent to the KCJIS terminal for the agency. The Daily AFS Reports detail the records that were processed and rejected.
- Missing/incomplete court dispositions: Missing information is found when a record has been requested and the central repository is automating the record. Also, when a person has attempted to purchase a firearm then all missing information must be obtained to be able to determine if the person is eligible to possess a firearm.
 - Clerks look on the district court website for dispositions before contacting prosecutors or courts for missing dispositions.
 - Check with Offender Registration Department to make sure they don't have a disposition the Criminal History Department is missing.
- Missing appeal documentation: Appeal information is just not sent to the central repository. Court clerks and prosecutor's offices are reporting in the comment section of the KDR that the person had filed an appeal, but the appeal is not being reported. It is important to get that information so the record can be accurate. The record should contain the original conviction, the appeal and the rehearing/resentencing if it pertains.
- Correcting inaccuracies: There is a form on the KCJIS web portal called a "FPC Change Request Form." Sheri Sharp can also email this form to people. You can correct ORI, charges, names, dob, etc from an arrest.
 - Cecilia Craig said the jail sometimes reports the wrong ORI on arrests. They put things as the SO ORI, but it should be the PD ORI. I told her she can correct these by submitting the form. That way other agencies won't continue to contact her for the wrong records.
 - The correction form cannot be emailed back to the central repository because personal identifying information (PII) cannot be emailed as per the KCJIS policy and a State of Kansas policy. Forms must be faxed or snail mailed.

Electronic Reporting

- FullCase: There are about 40 prosecutor's office's around the state that have the FullCase product. Eventually those prosecutors will be able to submit dispositions electronically. Finney County is currently in testing mode. Hopefully we will be able to additional counties testing now that Finney has begun and smoothed the road for others.

NICS requests

NICS is the National Instant Background Check System (they leave off the B for some reason) at the FBI. These requests are for those individuals that are attempting to purchase a firearm. The central repository only has 72 hours to get the responses back to the NICS Unit. After 72 hours, if no response was given, then the gun dealer can decide if they want to continue to sell the gun or deny the purchase. If the criminal history information is received after the 72 hours and they person is allowed to purchase the firearm, then ATF is notified to retrieve the firearm and arrest the person. If your agency cannot provide the information within the 72 hours please notify the central repository with the reason so we can notify the NICS Unit. Once the information is located please respond as soon as possible.

Training

The central repository has a Field Support Unit that travels around the state once a year and provides training at the repository several times a year. Training seems to be never ending because of the turnover in the positions around the state.

- Sheri Sharp provides training for the Criminal History Records. She shows agencies how to fill out the forms and answers "how to" questions. Lisa Parrish formerly did training for Ident. That function is now shared with everyone within the department.

Updates in Legislation

- SB 55: Several changes in this legislation
 - Restoration of rights to those individuals that are involuntarily committed. This is a requirement from the federal government as per the NICS Improvement Act of 2007. It allows for those individuals that have been cured of their mental illness to have a way to get their rights restored so they may purchase a firearm.
 - Allows the KBI to be an entitled agency to receive expunged records.
 - When the central repository requests for missing records they may have one copy for free, but all additional requests for records may be provided for a fee.
- DUI bill: The DUI bill has a portion to make the KBI the central repository for DUI. This may require electronic reporting.

The next Meeting will be June 16th at 1:30pm at the KBI Annex Training Room.

Please email Leslie Moore at leslie.moore@kbi.state.ks.us to suggest agenda items or possible solutions for items already discussed for the next meeting. Send the email no later than 5pm on June 6th.

The meeting adjourned at 3:15pm.